UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/51/542/Add.2
11 November 1996
ENGLISH
ORIGINAL: FRENCH

Fifty-first session
Agenda item 110 (b)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Implementation of the Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly addendum 2 of the interim report on the elimination of all forms of religious intolerance relating to a visit to the Sudan, prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with Assembly resolutions 50/183 and 50/197.

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I. INTRODUCTION

1. From 19 to 24 September 1996, the Special Rapporteur on religious intolerance visited the Sudan in the context of his mandate and at the invitation of the Government of the Sudan in accordance with General Assembly resolution 50/197 of 22 December 1995 and Commission on Human Rights resolution 1996/73.

2. He went to Khartoum and Omdurman and to Kaduqli in the Nuba Mountains. He held consultations with representatives of the authorities, in particular the Minister of Justice, the Minister for Social Planning, the Ministers of Education, Higher Education and Defence, the Minister for External Relations and the State Minister for External Relations.

3. He also spoke with the President of the National Assembly, Mr. Turabi, and with Christian and Muslim deputies.

4. The Special Rapporteur held fruitful consultations with religious and political representatives of Christian communities and various Muslim brotherhoods, including the head of the Ansar community, former Prime Minister Sadiq al-Mahdi. He also met representatives of non-governmental organizations and visited places of worship.

5. The Special Rapporteur wishes to thank the Sudanese authorities for having invited him and for their cooperation. He is also grateful to the numerous officials to whom he spoke during his visit.

6. At the time of his visit, the Special Rapporteur devoted particular attention to the study of legislation in the field of tolerance and non-discrimination based on religion or belief, its application and the policy in force, examining the situation of both non-Muslims and Muslims.

II. LEGISLATION IN THE FIELD OF TOLERANCE AND NON-DISCRIMINATION BASED ON RELIGION OR BELIEF

A. Outline of legislation

1. Constitutional provisions

(a) Provisions relating to religious freedom

7. The first chapter of Constitutional Decree No. 7, promulgated in 1993 by the Revolution Command Council and entitled "Constitutional principles, rules and developments", contains the guiding principles of the policies of the State, which are divided into seven parts, including those relating to "Religion" and "Society".

8. Part 1, entitled "Religion", provides that:

> "Islam is the religion which guides the great majority of the Sudanese. It is the basis of the laws, rules and policies of the State. Every individual, however, is free to adopt other revealed religions, such as Christianity or traditional religious beliefs. Religious freedom shall be guaranteed by the State and its laws."

9. Part 6 concerning society stipulates: "Society shall be based on religious values and free development ...".

10. Constitutional Decree No. 7 and chapter II, part 1, thereof, entitled "Rights and duties", provides as follows:

> "It is the duty of a religious citizen to be honest and sincere. He has the right to choose his religion without constraint and not to be subjected to discrimination on account of his faith, beliefs or social or financial situation. Every citizen has the duty to make a contribution by way of his thoughts and opinions, and he has the right to express himself freely and participate in public life in accordance with the law. Every citizen has the right to earn his living on the basis of fair competition, and his possessions shall not be confiscated except in accordance with the law. Every citizen has the right to freedom of movement and residence."

11. The Political Charter of the Sudan (April 1996) includes the following principles:

> "Citizenship shall be the basis of rights and duties in furtherance of the values of justice, equity, freedom and human rights.
>
> "The Shariah and custom shall be the source of legislation. However, states may enact legislation complementary to the federal law in matters peculiar to those states.
>
> "Freedom of religion and belief shall be observed, and a suitable atmosphere shall be maintained for practising worship, da'wah, proselytization and preaching. No citizen shall be coerced into embracing any faith or religion."

(b) Provisions relating to federal government institutions

12. The provisions regulating federal government institutions are in Constitutional Decree No. 13, promulgated in 1995, and concern in particular the President of the Republic, the elected members of the National Assembly, the armed forces and the judiciary.

(i) President of the Republic and elected members of the National Assembly

13. The conditions for election to the office of President of the Republic and of member of the National Assembly are provided for under articles 4 and 28 respectively of Constitutional Decree No. 13. Such conditions include no religion criterion.

14. Concerning oaths of office, pursuant to article 4 of the Decree, the President of the Republic must declare as follows:

> "I swear by Almighty God to hold the office of President of the Republic in full worship and obedience of God, carrying out my duties diligently and honestly and working hard for progress and promotion of the country. I swear by Almighty God to respect the Constitution, the law and public opinion and to accept consultation and advice. God witnesses and God is the best witness."

15. Article 31 of the Decree on the oath of deputies stipulates:

> "Every member shall, before performing his duties, take before the National Assembly the following oath: 'I swear by Almighty God that I will represent the people as a member of the National Assembly in obedience to God ... I know God is witnessing what I am saying'."

(ii) Armed forces

16. Pursuant to article 12 of the Decree:

> "The armed forces are a national and disciplined body. Their duty is the jihad and defence of the country against external and internal dangers and protection of the nation and her civilized leaders and the organization thereof shall be determined by law."

(iii) The judiciary

17. Article 61 of the Decree provides that:

> "A judge shall abide by the principle of supremacy of the Constitution, the law and the general norms of the Shariah, and he shall adhere to this principle without fear or favour of anyone save God."

2. Other legal provisions

(a) The Penal Code of 1991, hudud offences and other offences relating to religion

18. The Penal Code of 1983 was repealed and replaced by the Penal Code of 1991, promulgated by the Revolution Command Council of National Salvation in accordance with the provisions of the Third Constitutional Decree (1989).

(i) Hudud offences

19. Hudud offences are those of drinking alcohol, apostasy (harabah), adultery (zina), false accusation of unchastity, armed robbery and capital theft. This criminal legislation derived from Islam defines the above-mentioned religious offences and authorizes the imposition of Islamic punishments, including flogging and amputation, according to the seriousness of the offence. Pursuant to the Penal Code of 1991, such provisions are not applicable to the southern

states "unless the accused himself requests application of the said provisions to him or the legislative body concerned decides to the contrary".

20. Concerning apostasy, article 126 of the Penal Code stipulates:

> "1. Every Muslim who advocates the renunciation of the creed of Islam, or who publicly declares his renouncement thereof by an express statement or conclusive act, shall be deemed to commit the offence of apostasy.
>
> "2. Whoever commits apostasy shall be given a chance to repent during a period to be determined by the court; if he persists in his apostasy, and is not a recent convert to Islam, he shall be punished with death.
>
> "3. The penalty provided for apostasy shall be remitted whenever the apostate recants his apostasy before execution."

21. Alcohol-related offences fall under articles 77 to 79 of the Penal Code, whereas the offences of adultery, false accusation of unchastity, armed robbery and capital theft fall respectively under articles 145 to 147, 157 and 158, 167 to 169 and 170 to 173.

(ii) Other offences relating to religion

22. There are three main offences: insulting a religious creed, defiling and disturbing places of worship, and profaning the dead and desecrating cemeteries.

23. According to article 125 of the Criminal Code:

> "Whoever by any means publicly abuses or insults any of the religions, their rites or beliefs or ceremonies, or seeks to excite feelings of contempt and disrespect against the believers therein, shall be punished by imprisonment for a term not exceeding one year or by a fine or a whipping, which may not exceed 40 lashes."

24. With regard to places of worship, according to article 127 of the Criminal Code:

> "Whoever destroys or defiles any place of worship or any object held sacred by any group of persons, or obstructs or disrupts any religious assembly without lawful reason, intending thereby to insult that religion or group of persons, shall be punished by imprisonment for a term not exceeding one year or by a fine or by both."

25. Lastly, article 128 of the Criminal Code states:

> "Whoever desecrates any cemetery or graves or profanes any human corpse or commits any act or action that violates the sanctity of death without religious or legal excuse, or intentionally disrupts any ceremony of persons assembled for the performance of funeral rites, shall be punished by imprisonment for a term not exceeding one year or by a fine or by both."

(b) Legislation on religious matters and Islamic religious endowments (awqaf)[1]

26. The legislation on religious matters and Islamic religious endowments (1980) regulates the appointment of a Grand Council on Religious Matters and Islamic Religious Endowments, the purpose of which is:

> "To preserve religious values and enhance the understanding and practice of such values in society in order to draw closer to God and benefit society ... An effort shall be made to preserve the cultural identity of the nation and to guide it in the direction of the Islamic way of life, while giving due attention to the rights of those who are not Muslims and demonstrating in this regard flexibility and a progressive approach."

27. The Council's functions include: promulgation of policies, plans and programmes relating to religious matters and Islamic religious endowments; general supervision of religious institutions and places of worship and organization of their activities with a view to their optimum use, in order to serve the purposes of religion in worship and in social relations; general monitoring of religious activities, including guidance and regulation of their organization; and promotion of Christian activities and those of other religions and beliefs in cooperation with public organizations and institutions working in this field.

(c) Legislation on education

28. In accordance with Act No. 24 on public education (1992), the following are the objectives of public education: consolidation of belief and religious morality, inculcation of the teachings of religion, and education based on those teachings designed to produce free and responsible believers. Religious education is moreover obligatory at all levels of education.

(d) Legislation on nationality, marriage, and identity and travel documents

29. Documents provided by the Ministry of the Interior of the Sudan concerning the acquisition of Sudanese nationality indicate that the Nationality Code (1993) contains no conditions connected with the religion of the applicant. The same Ministry's naturalization statistics show that in 1992 and 1993, 406 of the 535 successful applications for naturalization were made by Christians.

30. The 1926 legislation on the marriage of non-Muslims provides that the State recognizes the marriage of non-Muslims regardless of whether such marriage is contracted in accordance with the requirements of other religions, existing pagan religions or tradition.

31. Under 1981 legislation, amended in 1995, the right of every Sudanese citizen to an identity card is not subject to any condition connected with religion. Exactly the same applies to the issue of ordinary Sudanese passports in accordance with the legislation on travel and immigration.

32. Furthermore, application forms for Sudanese nationality, identity cards and passports do not contain any mention of religion. The entry and residence of

foreigners are subject to strict legal regulation but, according to the documents of the Ministry of the Interior, are not affected by the religion of the person concerned. The same applies to applications by Sudanese for exit visas.

(e) Legislation on refugees

33. According to the Ministry of the Interior, under Sudanese law all refugees enjoy non-discriminatory treatment with respect to religion and belief.

(f) Legislation on the treatment of prisoners

34. According to the information provided by the Ministry of the Interior, Sudanese legislation and regulations on prisons and corrective institutions guarantee prisoners non-discriminatory treatment, including in matters of religion; this treatment respects the right to pray according to one's religion or belief in an appropriate place designated for this purpose.

35. With regard to Sudanese legislation in general, the authorities have indicated that efforts have been made to combat religious fanaticism and promote tolerance, in order to counteract the dangers of the spread of fanaticism in social life and its adverse effects on stability, equality and justice.

B. Concerns of the Special Rapporteur about certain types of discrimination and differentiation

1. Constitutional provisions

(a) Provisions relating to the President of the Republic and the elected members of the National Assembly

36. The Constitution contains no provisions barring non-Muslims from posts in the executive or the legislature. In accordance with articles 4 and 31 of Constitutional Decree No. 13, the President of the Republic and the elected members of the National Assembly must swear an oath before God on taking office.

37. The Minister of Justice and the Minister for Religious Endowment have stated that citizenship is the frame of reference and the basis of all rights, with respect in particular to access to posts in the executive and the legislature, without any religious discrimination or any link between citizenship and religion. Mr. Turabi has added that Sudanese legislation contains no condition connected with religion affecting access to the position of deputy, as is demonstrated by the presence of Christians in the Parliament, in contrast to the position of Muslims in the parliaments of European countries.

(b) Provisions relating to the armed forces

38. According to Constitutional Decree No. 13, the duty of the armed forces is the jihad. The Islamic religious term "jihad" prompts questions as to its offensive meaning (holy war against unbelievers, i.e. non-Muslims) or defensive meaning (against an attack) and thus about the place of non-Muslims in the army

and respect for their beliefs and more generally for the beliefs of non-Muslims in the Sudan.

39. According to the Ministry of Defence, the legislation relating to the armed forces guarantees the principle of non-discrimination on the basis of religion or belief by, on the one hand, granting all adult Sudanese citizens access to the army, as is shown by the presence in the Sudanese armed forces of Muslims, Christians and pagans and, on the other, providing that any soldier, whatever his religion or belief, may be promoted. Furthermore, the religious rights of the military, including prayer, are respected throughout the Sudan. Lastly, the Minister of Defence declared that there was no jihad in the southern states, but rather a non-religious conflict, and explained that the army's mandate was to defend the country and not to force the south to convert to Islam.

40. The President of the National Assembly, Mr. Turabi, stressed that Islam was against all constraint in regard to religion and that Islam called for respect for minorities. The term "jihad" should be understood as meaning defence, not aggression. According to Mr. Turabi, a further concern is to maintain a disciplined army, controlled by God and the State, for the defence of the public.

(c) Provisions relating to the judiciary

41. Under Constitutional Decree No. 13, judges should be guided by the Constitution, the law and the general norms of the Shariah.

42. The Special Rapporteur wanted to know about the role of custom, and more precisely the force of the customary law of the peoples of southern Sudan, and also about possible contradictions between the Shariah and customary law. For example, in the Shariah, the equivalent of a bride price must be returned to the husband upon divorce. In Dinka customary law, bride wealth is the property of the wife's relatives and they keep it upon divorce. However, according to several non-governmental observers, a judge sentenced a wife to prison because her family refused to return the bride price to her ex-husband although neither she nor her husband was a Muslim. The judge thus applied the Shariah to non-Muslims despite the existence of codified Dinka customary law.

43. The Minister of Justice, the State Minister for External Relations and the Chief Justice and Chairman of the Kaduqli Human Rights Committee declared that the customs of the southern populations were respected.

2. Other legal provisions

(a) The Penal Code of 1991 and hudud offences

(i) Scope of the principle of non-applicability of hudud offences to the southern states

44. According to the Penal Code of 1991, the provisions relating to religious offences are not applicable to the southern states. The Special Rapporteur noted, however, that this non-applicability is not fully guaranteed because, on

the one hand, the legislative body concerned is empowered to take a contrary decision and, on the other, it is not extended to non-Muslims residing outside the southern states. The non-application of the provisions relating to religious offences is thus carried out on a territorial rather than a religious basis, which means that the Shariah can be legally imposed on non-Muslims in the north. Thus, according to some non-governmental observers, many non-Muslim women from the south, living as refugees in northern Sudan, have been whipped and/or arrested for trading or for consuming alcohol.

45. The State Minister for External Relations explained that the Government had reached a compromise which was reflected in the Penal Code. This ensured both the application of the Shariah to a mainly Muslim population and respect for the rights of non-Muslims by refraining from imposing the Shariah in the southern states and by taking their customs into consideration. It was recognized that difficulties had arisen owing to the mass arrival of people from the south, who were fleeing the war and establishing themselves in the mainly Muslim north, where the freedoms specific to the southern states in, for example, alcohol-related matters are not available to them.

46. While underlining that the law was applied without religious discrimination and with respect for the rights of non-Muslims, Mr. Turabi explained that consumption of alcohol was not a crime in the southern states, while in the north it was authorized for non-Muslims in private and forbidden in public.

47. The Minister of Justice added that the Sudanese State was based on the Shariah, which was characterized by tolerance, but the Shariah and hudud offences were not applied in the south, even though the majority in that region was not Christian. In other words, the ban on alcohol was lifted in the south not only for non-Muslims but also for Muslims.

(ii) The special case of conversion

48. Regarding conversion, the Special Rapporteur noted that no limitations are placed on non-Muslims who wish to convert to Islam, whereas serious restrictions are applied to Muslims who change religion and who could be condemned to death as apostates for any public manifestation of their conversion.

49. Mr. Turabi and the Consultative Human Rights Council stated that conversion for Muslims was accepted but could not be manifested for fear of disturbing public order.

50. Regarding conversion, the Special Rapporteur wishes to recall general comment No. 22 (48) of the Human Rights Committee dated 20 July 1993 concerning the freedom to "have or to adopt" a religion or belief of one's choice (see para. 139).

(b) Legislation on public order and the treatment of prisoners

51. According to information received, the Public Order for Khartoum Act (November 1992) stipulates certain restrictions for women, such as separation from men in public transport, and a ban on selling food or drink in streets or public squares from 5 p.m. to 5 a.m. The legislation regulating public order is

stricter outside Khartoum. At Wad Medani, the Public Discipline and Conduct Act No. 2 (1992) establishes the obligation of an Islamic dress code for women on pain of punishment by whipping and/or a fine for any Muslim woman who does not respect this regulation in public life.

52. The Organization of Prisoners and Treatment of Inmates Act (1992) provides for the early release of prisoners who learn the Koran by heart. A commission supervised by the prison authorities in consultation with the Minister for Religious Endowment tests a prisoner's knowledge of Islam and makes recommendations on early release. Many non-governmental observers see this legislation as inciting non-Muslims to convert to Islam, since there is no legal provision for early release based on knowledge of non-Islamic religions.

53. The Minister of the Interior insisted that no discrimination was practised towards prisoners, particularly in the context of the legislation. It was explained that the release of prisoners was not tied to religious criteria, although religious feast days were often marked by releases: that is, Christians were released when their religious feasts were celebrated, and Christian and Muslim prisoners were released when Muslim feasts were celebrated.

(c) Legislation on education

54. The Special Rapporteur notes that religious education is compulsory in public schools and is determined by the religion of the pupils. The relevant legislation in this area does not seem to allow for any dispensation from religious instruction, an omission that appears to raise problems with regard to people's free will.

(d) The repeal of the Missionary Societies Act (1962), the Provisional Order of 4 October 1994, the Aliens' Voluntary Work in the Sudan (Organization) Act (1988) and the Societies Registration Act (1957)

55. In October 1994, the Sudanese authorities repealed the Missionary Societies Act passed in 1962 to expel foreign Christian missionaries. This legislation was intended to curb drastically the activities of missionaries by means of a licensing system.

56. Nevertheless, the President of the Sudan subsequently introduced the Provisional Order of 4 October 1994, which was intended to regulate the activities of the churches. As a result of this new legislation, churches were classed no longer as spiritual institutions but instead as foreign non-governmental organizations obliged to follow a registration procedure under which a State official could exercise control by approving or turning down applications.

57. The Provisional Order modified the Aliens' Voluntary Work in the Sudan (Organization) Act (1988) and the Societies Registration Act (1957) by regulating foreign non-profit organizations and domestic non-governmental organizations, respectively, for the purpose of including religious organizations.

58. According to non-governmental reports, the Provisional Order would have required all churches existing before October 1994 to apply for registration to the Commissioner of Social Planning within 60 days. It would have required each new congregation of existing churches to register as new and separate churches. The Commissioner would have the power to accept or reject the application, forwarding it to the Minister for Social Planning for approval of the rejection or registration or fulfilment of conditions. If the conditions were not fulfilled by the church within 90 days, it would cease to function and its assets would be disposed of by liquidation.

59. The requirements for churches under the Provisional Order appear to be identical to those for an ordinary foreign non-profit corporation: to submit an annual statement of accounts to the Minister, hold annual meetings, file a membership list, elect officers as set forth in its by-laws and so forth. These requirements would not be limited to the relief and development programmes of churches but would be extended to the churches themselves, as spiritual institutions. The Minister would have the power to cancel a registration if a church contravened the provisions of the Order. He could cancel a registration if a church's total membership was less than 30.

60. The churches were vociferous in their disapproval of this legislation and refused to follow the registration procedure. Nevertheless, the present status of the Provisional Order, and whether it has been revised, abolished or retained, is not known, which raises problems with regard to the legality of churches.

(e) Legislation on travel documents

61. Many non-governmental representatives emphasized that Sudanese nationality was available to any Muslim, whatever his country of origin, but especially to foreign Muslim extremists, who were able to travel on Sudanese passports, including diplomatic passports.

62. The Minister of Justice said, in reply, that no Sudanese law permitted Sudanese nationality to be acquired by any foreign Muslim and that the criteria on which decisions on nationality were based included residence in the Sudan but not religion or belief, in accordance with the relevant legislation in force.

III. IMPLEMENTATION OF LEGISLATION AND POLICY IN THE FIELD OF TOLERANCE AND NON-DISCRIMINATION BASED ON RELIGION OR BELIEF

63. Reports from non-governmental sources claim that the Sudanese authorities are implementing a policy of Islamization and Arabization of the Sudan through religious and political persecution of not only non-Muslims (Christians and animists), but also Muslims, in all religious and other social spheres. Islam is, in fact, being exploited for political ends in the pursuit of power, not only in the national arena but also beyond it, through the funding of acts of violence and sometimes terrorism outside the Sudan. Any Muslim who questions official policy is therefore regarded and treated as an apostate or even a traitor, while non-Muslims are considered infidels and unbelievers. The war in

the southern states, originally a civil war of a political nature, has been turned by the authorities into a jihad as a result of their programme of ideological indoctrination and their policy of oppression.

64. Non-governmental organizations claim that international pressure, particularly from the United Nations, and the growing political and economic weakness of the country have forced the Sudanese Government to make some changes for the better, particularly in the religious sphere. However, this development appears to be a tactical switch focusing on a new kind of political message and public relations, without effect on the essential nature of the regime.

65. According to the authorities, however, the Sudan is a model of tolerance whose legislation and policies are characterized by respect for religion and belief and coexistence within Sudanese society based on the principles of citizenship, equality, justice and human rights. In their opinion, criticism of the Sudan is due to a lack of understanding of the country's unique character and to the fear elicited by any new regime experimenting with its own societal model and asserting its independence in the face of the interests of the great Powers, which want to impose their lifestyles on the international community as a whole.

66. The Special Rapporteur notes the diametrically opposed conclusions of the Government and the non-governmental organizations concerning the situation in the Sudan with respect to tolerance and non-discrimination based on religion and belief. In the context of this section on the implementation of legislation and policies and the effect on freedom of religion, the Special Rapporteur studied the situation of both non-Muslims and Muslims.

67. Exact figures on the size of the various Muslims and non-Muslim communities were not available. The Minister for Religious Endowment stated that he had no data on the religious make-up of the Sudan. Yet while meeting with the Minister of Justice and the Consultative Human Rights Council, the Special Rapporteur was informed that a census that included questions about religion had established that the population was 85 per cent Muslim, the rest being animist and Christian. After the Special Rapporteur studied and compared the information available, the following estimates were put forward during discussions with officials and non-governmental groups: approximately 70 per cent Muslim (mostly Sunni), approximately 15 per cent Christian, and approximately 15 per cent animist.

68. Figures concerning non-Muslims are very approximate, with some non-governmental sources estimating the animist population to be larger than the Christian population. In addition the authorities stressed that southern Sudan was mostly animist and non-Christian (estimates by the Minister for Religious Endowment: 79 per cent animist, 11 per cent Muslim, 10 per cent Christian; estimates by the Minister of Defence: 65 per cent animist, 18 per cent Muslim, 17 per cent Christian).

69. Finally, some non-official sources report a large-scale immigration of the Christian population since the new regime took power in 1989, because of disagreement with the policies adopted and for economic reasons.

A. Situation of non-Muslims

70. The Special Rapporteur wishes to point out that during preparations for his visit and during the visit itself, he was able to obtain more information about the Christians than about the animists, no doubt because the Christian communities are better organized and structured and are supported by national and international non-governmental organizations.

1. Religion and belief

(a) Religious and animist activities

71. According to many non-governmental observers consulted in private, the official policy of Islamization and Arabization, which also incorporates the notion of jihad in its offensive meaning of holy war against the infidels, has resulted in the repression of Christian and animist religious activities with a view to their elimination and replacement by the official, Muslim religion.

72. In addition to attempts to strictly control Christian religious activities with legislation such as the Provisional Order and the modification of the Aliens' Voluntary Work in the Sudan (Organization) Act (1988) and the Societies Registration Act (1957), the Government is in fact reported to be interfering in the area of religion and belief by imposing limitations and constraints on non-Muslim religious officials, believers and places of worship (see paras. 126-132).

73. The authorities are also said to be blocking the development of Christian activities by strictly limiting religious observances to believers, thus preventing any proselytizing, especially of Muslims, under pain of punishment and arrest (ibid.). According to many non-governmental sources, converted Muslims are subject to pressure and close surveillance, the intention being to force them to abandon their religious activities and return to Islam. Religious officials are also said to face severe restriction of their freedom of movement and action with respect to travel within the Sudan and abroad and in some cases because they have been arrested by the security forces (ibid.).

74. It should be pointed out however that recently, according to some non-governmental sources, obstacles to free movement around the country seem to have been removed not only for Sudanese religious officials but also for foreigners visiting the Sudan. Furthermore, some Christian officials have recently been granted some freedom in the matter of religious publications, including the Bible, allowing them to serve the needs of their community.

75. The Christian and animist communities are nevertheless reported to be still subject to constraints, on the one hand because of the application of hudud outside the southern states and, on the other, by being pressured or forced to convert to Islam.

76. According to unofficial reports, non-Muslims outside the southern states have been found guilty of and punished for religious offences based on Islam

(hudud), especially for failing to observe the Islamic dress code and the prohibition of the sale or consumption of alcohol.

77. The non-Muslims who left the south because of the war and who are now living in displaced persons' camps are said to be under great pressure to convert to Islam in exchange for facilities and food, or even financial assistance, provided by Islamic humanitarian non-governmental organizations including the Da'wah Islamiyah, which enjoys special support from the State.

78. Non-Muslim children are said to be kidnapped in the streets and forced to convert to the Muslim religion in Islamization centres. Moreover, in the "peace camps" created by the authorities in the southern states, non-Muslims, especially children, are reportedly subject to religious indoctrination and even circumcision and Arabization of their names, and eventually forced conversion to Islam. Those converted are then expected to become Muslim fighters in the jihad and are even used as slaves, according to non-governmental sources, although their reports are often inconsistent.

79. The authorities and the non-governmental observers consulted in an official context maintained that there was complete freedom of religion, excluding any discrimination or intolerance towards non-Muslims, in a context of coexistence between the Muslim and non-Muslim communities. They said several times that Islam was against enforced compliance of any kind and that accusations of Islamization of the south, application of the Shariah to non-Muslims, circumcisions, forced or induced conversions and slavery were therefore quite unfounded. They also observed that in the Sudan, all were free to choose their religion or belief, this being a private matter, and that churches were proselytizing and humanitarian missionary organizations were providing assistance in order to convert people to Christianity. During a meeting at the Ministry of the Interior, a high-level prison official stated that, for the sake of public order, religion should be practised in the place of worship and not in the street. It was, however, possible to obtain official authorization for a public religious ceremony. The authorities also maintained that the problems in the southern states were purely political but that the rebels used the religious argument in order to get foreign assistance. During a meeting organized by the authorities in Kaduqli, in response to a question from an official, our interlocutors maintained categorically and unanimously that there was no intolerance or discrimination in the Sudan, notwithstanding any evidence to the contrary.

80. Some non-governmental representatives consulted officially stated that there had been abuses in the area of religion when the regime took power in 1989 but that the situation had gradually improved. While admitting that religious fanaticism did exist, they explained that it was not the result of State policy but rather of the isolated actions or conduct of individuals or groups of individuals, including civil servants.

81. Finally, several officials felt that non-Muslims enjoyed religious privileges.

(b) Places of worship and religious institutions and objects

82. All the non-governmental representatives consulted in private, were quick to denounce the intolerable situation concerning non-Muslim places of worship.

83. For years, they explained, all requests for building permits for places of worship had been rejected, explicitly or tacitly, by the authorities. Consequently, non-Muslim communities, while acknowledging the existence of many old places of worship, could not build additional places of worship in order to meet the needs of their members. The number of mosques built had increased strongly, however. Non-Muslims thus received unequal treatment from the Government of the Sudan.

84. Religious organizations, mainly foreign ones, also encountered serious difficulties in leasing buildings to be used as places of worship, as the owners expressed fears about the reaction of the authorities.

85. In addition, non-Muslim communities were required to pay fees to the State for their places of worship and religious objects.

86. Lastly, many non-governmental representatives specifically drew the Special Rapporteur's attention to the destruction of places of worship in the Sudan. In the war-torn southern states, they stated, non-Muslim places of worship had been destroyed by the Sudanese army, mainly during aerial bombardments, and by arson committed by groups of Muslims with ties to the regime. The police took no action to stop or investigate such attacks.

87. It was reported that outside the southern states, in the displaced persons' camps, mainly in the Khartoum area, non-Muslims had erected tents or very modest dwellings to serve as places of worship. Nevertheless, the authorities had prohibited those unauthorized places of worship and had proceeded to demolish them in the context of urban development and housing programmes, but without providing compensation in the form of building sites for churches. Such demolitions had occurred at Shigla El Hag Yusif, Fetihab and Umbada, among other places. During his visit, the Special Rapporteur was able to obtain from non-governmental sources a letter dated 8 September 1996 from the Ministry of Regional Development, ordering the Christian Church of the Sudan to demolish an unauthorized church in the governorate of Krra.

88. Lastly, places of worship outside the south were also said to have been targeted by Muslims committing arson. For instance, the Catholic prayer centre at Jebel Aulia was burned in November 1995.

89. The authorities refuted the above allegations concerning places of worship. To that end, the Special Rapporteur was provided with extensive and detailed documentation offering statistical proof of the large number of non-Muslim places of worship and religious institutions (see the table entitled "Christian activities in the Sudan" in the annex) and attesting, according to the authorities, to the religious tolerance of the Sudanese State. Requests for building permits for places of worship would not encounter any obstacles so long as they met the requirements relating to a sufficient number of worshippers. The Council for International Friendship indicated that, as in any country,

there might be opposition to such requests from extremists occupying seats on the town councils, but that efforts would be made to eliminate it.

90. The Minister of Defence rejected the allegations that non-Muslim places of worship in southern Sudan had been destroyed by the Sudanese army, citing, in particular, Islam's recognition of and respect for all places of worship.

91. The authorities confirmed the destruction - strictly in the context of urban development and housing programmes - of illegal places of worship belonging to all religious groups, including Muslims, but stressed that compensation had been provided for the building of new places of worship.

92. The government spokesman added that the State had contributed financially to the building of non-Muslim places of worship. The Council for International Friendship admitted that arson was sometimes perpetrated against churches but felt that the incidents were isolated acts of extremists.

2. Education

93. Non-official spokesmen deplored the implementation of an educational policy of Islamization and Arabization which adversely affected the religious, cultural and ethnic diversity of the various Sudanese communities.

94. Among the problems mentioned were the following: on the one hand, discrimination against Christian teachers in the public schools and the pressures faced by non-Muslim pupils to study the Koran and by young Christians and animists to comply with the Islamic dress code; on the other hand, the closing by the authorities of some Christian, Coptic and Armenian schools in northern Sudan and the Islamization of non-Muslims in the displaced persons' camps through schools administered by non-governmental organizations which received preferential treatment from the Government.

95. Moreover, numerous sources of information confirmed the abduction of non-Muslim children, who were subjected, without the consent of their parents, to an Islamization programme carried out by the Koranic schools of central and eastern Sudan, particularly the Karia Hannan Koranic school. In August 1996, for instance, approximately 100 Dinka children were transported by Islamists from Bor to the north to be Islamized. In early 1996, Christian children from the Nuba Mountains were also abducted in the Kaduqli area and placed in a Koranic school in the town of Um Ruaba.

96. Some non-governmental and foreign spokesmen believed that the Government's Islamization and Arabization policy was aimed at uniting the Sudan by increasing its integration and consolidating within it a nation capable of providing firm support for the regime.

97. The Minister of Education explained that the goal of education was to build religious character, regardless of belief. To that end, while maintaining private schools for the non-Muslim communities, the authorities had decided to institute compulsory religious education in the primary and secondary schools,

with due respect for individual beliefs. It was explained that the Shariah was not applied in the south and was not included in school curricula.

98. The Minister of Justice added that religion was a basic academic subject in which competence must be demonstrated by means by an examination in order to obtain a study certificate.

99. With regard to the Arabization policy, the Minister of Education noted that it had been instituted in 1965 and had made it possible to unite the Sudanese, who spoke several different languages.

100. Lastly, the authorities stressed again that Islam was characterized by religious tolerance and a prohibition against coercion, particularly in respect of conversions, and that such tolerance was traditional in the history of the Sudan.

3. Employment and social and cultural matters

101. Talks with the non-governmental representatives conveyed a very distinct impression that many non-Muslims felt themselves to be second-class citizens, whose rights - perceived, rather, as privileges by the authorities - were not commensurate with their duties.

102. The non-governmental spokesmen declared themselves to be victims of marked discrimination in such areas as employment and access to the broadcast media, and in Sudanese society in general, owing to the official policy of Islamization and Arabization and to the holy war against infidels or unbelievers (jihad, a term first used by the Government in 1990, even though the conflict with the southern states had been going on for some years).

103. Non-official representatives with whom meetings were held in an official context explained that the State recognized the right of non-Muslims to apply their religious law in personal matters (marriage, inheritance, etc.) and that non-believers enjoyed respect for their personal status in accordance with their tradition.

104. The authorities, including the Minister of Justice and the Minister for Religious Endowment, stressed the absence of religious discrimination, noting that citizenship was the frame of reference in the Sudan and that no religious group enjoyed a monopoly at the expense of other groups, as shown by the presence of non-Muslims in the Government, Parliament, the administration and the armed forces. Lastly, according to the official spokesmen, the Sudan was a model of tolerance, ensuring the same rights for all and even granting privileges to non-Muslims.

4. Protection of the individual

105. According to numerous non-governmental sources, non-Muslims are subjected to religious persecution, particularly in the context of the armed conflict in southern Sudan. Grave violations of human rights were being committed in the

southern states, including massacres of civilians, extrajudicial killings and summary executions, ill-treatment and torture, rape, and abductions of women and children, who were being forcibly converted to Islam and/or treated as slaves, for which responsibility fell mainly on the Sudanese authorities. Some of those violations, with certain exceptions, for example, forced conversions to Islam, were also attributable to parties to the conflict in the south other than the Sudanese Government and did not constitute religious persecution by the guerrilla movements.

106. Outside the southern states, it was stated, non-Muslims were subjected to close police surveillance, and children were abducted for the purpose of forcible conversion to Islam. Muslims who had converted to Christianity were harassed by the security forces, as were religious leaders, who were particular targets of arbitrary arrest. Thus, in August 1996, two Catholic priests, Father Roko and Father Elias, were arrested by the security forces for having preached against Islam in their Sunday sermons. They were recently released.

107. The authorities recalled their policy of tolerance and respect for the rights of non-Muslims. The Minister of Justice explained that no one was sentenced and detained for his beliefs, but only for committing offences. The Minister of Defence noted that all defendants had the right to a trial and that justice was administered in accordance with the rules of law (particularly respect for the presumption of innocence). Lastly, the violations referred to above that had been committed in the south were ascribed by the authorities to the rebels.

B. Situation of Muslims

108. The Special Rapporteur wishes to point out that, during his visit, he was able to gather information concerning the various Muslim political and religious communities in the Sudan, particularly the Ansar order.

1. Religion

109. According to numerous non-governmental observers, the authorities had usurped the religious sphere, claiming that they alone were in possession of divine truth, and had perverted religion by politically exploiting Islam in order to secure their grip on power and enforce their authority through religious and political persecution and totalitarian methods, in complete contrast to the historically tolerant Muslim heritage of the Sudan.

(a) Religious activities

110. The non-governmental representatives complained about strict official control of the religious activities of the various Muslim communities. Sermons could not be prepared freely by the imam in charge but had to be submitted to a special committee established by the authorities for the purpose of exercising control and thus ensuring a religious message consistent with the official instructions. Moreover, imams who refused to comply with government orders were prevented by the security forces from preaching sermons in the mosques; that

applied, in particular to Sheikh Abdullah Amin, of the Medina mosque; Sheikh Awad Jalal, of the Sheikh Mustafa Amin mosque; Sheikh Mustafa Khalifa, of the Haj Idris mosque; Sheikh Jaafar Sherif, of the Shems mosque; and Sheikh Muhammad Nur, of the Port Sudan mosque.

111. Preachers were exhorted by the authorities to use their sermons to ensure that believers remained loyal to the regime. All who refused were punished by being evicted and replaced with government-appointed imams.

112. Moreover, according to some reports, the authorities strove to echo Iranian concerns alien to the Sudanese Sunni Muslim faith. Training camps for foreign Muslim extremists, originally intended for the organization of violent actions outside the Sudan, were now being used, owing to the weakening of the State and to international pressure, for domestic repression alien to local Islamic traditions.

113. Lastly, it was maintained that religious leaders who did not conform to official policy were subjected to measures of harassment, curbs on their freedom of movement, arrest, arbitrary detention and ill-treatment (see paras. 126-132).

114. The authorities stated that the Sudan was a model of religious tolerance and coexistence among the various religious communities. On the subject of Islam, it was stressed that religion meant civilization and the presence of God in all aspects of life. Accordingly, religion should not be confined exclusively to the private sphere and, in particular, to the mosques. Furthermore, Islam excluded all types of coercion and accorded freedom to all. That concept of Islam therefore tended, according to the authorities, to invalidate allegations regarding the authorities' strict control over religious matters in Muslim brotherhoods and perversion of them for political ends, as well as the information concerning terrorism.

115. The official representatives felt that there was no religious crisis in the Sudan. They explained that the allegations of religious persecution of Muslims were propaganda by the Sudanese Muslim opposition, which wanted to seize power and objected to questioning of its autocratic control of the land and wealth of the Sudan. According to the authorities, the opposition therefore uses the argument of religion for political purposes. At the same time, these internal conflicts are allegedly exploited by the major Powers, which do not accept the societal model or independence of the Sudan.

(b) Places of worship and religious institutions and objects

116. According to non-governmental organizations, there have been major attacks on places of worship and religious institutions and objects. In the southern states, the allegations made regarding the destruction of non-Muslim places of worship following bombardment by the Sudanese army and arson attacks perpetrated by Muslim groups with ties to the Government are said to be relevant with regard to mosques as well. Cases of desecration of mosques have also been reported to the Special Rapporteur. The attacks are alleged to result from the central Government's official policy imposing "its truth regarding Islam on an erroneous local version of Islam" and therefore to have religious legitimacy, as demonstrated by, inter alia, the fatwa of April 1992 (see para. 122).

117. Outside the southern states, no case of destruction of a mosque has been brought to the attention of the Special Rapporteur other than demolition in the context of urbanization plans. The attacks on the places of worship of various Muslim brotherhoods are said to result from official confiscation measures and acts of desecration by the armed forces or the police.

118. For example, with regard to the Ansar community, in May 1993 the Government allegedly confiscated many religious properties, including the great Mahdi mosque, which contains Mahdi's tomb and Ansar's seat, and also the main library and several mosques, particularly in the towns of Jahawra and Zagouna. The confiscated great mosque of the Ansar is said to have been desecrated by the security forces, which penetrated this sacred place with tanks and destroyed volumes of the Koran.

119. The Ansar Al Sunna community is also alleged to have been the target of an attack aimed at the religious leader Sheikh Abu Zeid which was perpetrated by three individuals in February 1994 in the main Al Thawra mosque during prayers. In 1993, as part of a campaign of intimidation with the objective of imposing official imams, the police forces are said to have placed their vehicles in front of the Al Thawra and Al Sahafa mosques in Khartoum during Friday prayers.

120. The arguments put forward by the authorities in the section concerned with religious activities and in the section devoted to non-Muslim places of worship are also relevant here.

2. Social and political matters

121. Many non-governmental representatives expressed their opposition to the political and forced imposition of Islam by the authorities. This policy is said to have affected all the sectors, both religious and civil, of society and to have infringed on the rights of not only non-Muslims but also a majority of the Muslims, to the detriment of Islam and the Sudan.

122. In order to illustrate their analysis of the perversion of Islam by the Government, these observers sent to the Special Rapporteur a fatwa of April 1992, emanating from men of religion and allegedly supported by the authorities, which defines the attitude to be adopted in relation to the apostates and unbelievers of Kordofan and southern Sudan:

> "The rebels of southern Kordofan and southern Sudan have risen against the State and have declared war on the Muslims. Their main objectives are to kill Muslims, desecrate mosques, burn and defile the Koran and rape Muslim women. They are encouraged in their actions by the enemies of Islam and of Muslims, namely the Zionists, the Christians and arrogant persons who provide them with supplies and weapons. Consequently an insurgent, even if he was previously a Muslim, is now an apostate; and a non-Muslim is an infidel who is obstructing the expansion of Islam, and Islam authorizes Muslims to kill him."

123. In reaction to this situation of indoctrination and denial of all rights and freedoms, non-governmental representatives referred to the Conference on the

National Democratic Alliance on Fundamental Issues, held in Asmara in June 1995, at which the Democratic Union Party, the Umma Party, the Sudan Communist Party, the Union of Sudan African Parties, the Sudan Peoples' Liberation Movement and the Sudan Peoples' Liberation Army, the legitimate command of the Sudanese Armef Forces, the Sudanese Alliance Forces, the Beja Congress, the Sudanese Trade Union and independent national personalities adopted the following principles on the relationship between religion and politics in the Sudan:

> "(a) All norms and principles of human rights enshrined in regional and international human rights instruments and covenants shall be an integral part of the constitution of the Sudan and any law, decree, executive order or policy measure contrary thereto shall be considered null and void and unconstitutional;
>
> "(b) All laws shall guarantee the full equality of citizens on the basis of citizenship, respect for religious beliefs and traditions and without discrimination on grounds of religion, race, gender or culture. Any law contrary to the foregoing stipulation shall be considered null and void and unconstitutional;
>
> "(c) No political party shall be established on a religious basis;
>
> "(d) The State shall acknowledge and respect religious pluralism in the Sudan and shall undertake to promote and bring about peaceful interaction and coexistence, equality and tolerance among religions and noble spiritual beliefs, and shall permit peaceful religious proselytization and prohibit coercion in religion, or the perpetration in any place, forum or location in the Sudan of any act or measure intended to arouse religious sedition or racial hatred".

124. The non-governmental representatives insist in particular on a return to the historical Sudanese Islam of tolerance and non-discrimination based in particular on respect for the rights of the various Muslim and non-Muslim communities.

125. The arguments put forward by the authorities in the preceding sections reflecting their concept of Islam, together with their analysis of the situation characterized by, inter alia, tolerance and coexistence, and the attempts of the opposition to make political use of religion for the purposes of power, may be considered here in response to the above-mentioned allegations deriving from non-governmental sources.

3. Protection of the individual

126. According to non-governmental sources, serious violations of human rights in the southern states, committed primarily by the Sudanese army but also by the conflicting parties other than the Government of the Sudan, against non-Muslims (see paras. 105-107), in no way spare the Muslims. Outside the southern states, it is alleged that religious leaders and the faithful of various Muslim brotherhoods, including the Ansar, Ansar Al Sunna, Khatmyya and Samaniya

brotherhoods, are subjected to restrictions on their freedom of movement and also campaigns of harassment and intimidation by the Government.

127. By way of example, concerning the Ansar, in addition to the arrests of the former Prime Minister Sadiq Al-Mahdi, an imam of the Ansar order and the leader of the Umma party, on charges of "involvement in subversive activities" and of more than 200 Ansar personalities, including religious officials who disputed this measure, followed later by their release, the Special Rapporteur was informed that on 6 September 1996 a group of armed individuals, following the instructions of the authorities, allegedly entered the Hija Boudnoubwa mosque with the intention of murdering Mr. Sadiq Al-Mahdi. After that attack failed because of the intervention of the faithful, the authorities are said to have ordered the arrest of members of the Directorate of Ansar Affairs, including Al-Fade Adam, Sidiq Mohamed Jom, Al-Hadi Abdel Aziz, Omer Abdel Rahman Omar, Isma'il Adam Ali, Abu Al-Abass Daw Al Na'im, Isma'il Balol, Taj Al Din Bashir and Abd Allah Bashir Abu Salif.

128. In addition, all the Ansar imams are said to be regularly subjected to police interrogations and various forms of provocation and to have been detained for periods of from one to three months without formal charges or sentencing because their Friday sermons did not conform with the directives of the authorities. For example, Imam Mohamed Mahdi Hassan of the Wad Nabawi mosque is said to have been arbitrarily detained more than five times and to have been subjected to mistreatment and torture.

129. Similarly, with regard to the Ansar Al Sunna brotherhood, in addition to the attempted assassination of the religious leader Sheikh Abu Zeid in February 1994 (see para. 119), the imam of the main Al Sunna, Shams El Din mosque is said to have been threatened with house arrest by the security forces, whose object is to force him to cede his position as preacher to an imam designated by the Government. During the same period, his muezzin is also alleged to have been kidnapped and beaten.

130. Lastly, the imams of the Muslim Brothers brotherhood, including Mr. Al Hibir Youssif Nour Al Dai'eim, are alleged to have been closely watched by the security agents, particularly during Friday prayers. In addition, they are said to have been regularly called in by the police forces and interrogated.

131. The various Muslim brotherhoods are said to be subjected to discriminatory attitudes and policies.

132. The authorities emphasized that nobody was in detention on grounds of religious belief or political conviction. People were detained for offences, such as conspiracies aimed at seizing power on the part of, among others, the Ansar. It was recalled, moreover, that the rules of law and justice were duly respected in the Sudan. Lastly, official spokesmen reiterated the arguments put forward in connection with the Sudanese Muslim opposition (see paras. 110-115).

IV. CONCLUSIONS AND RECOMMENDATIONS

133. The Special Rapporteur studied, on the one hand, the legislation in the field of tolerance and non-discrimination based on religion or belief and, on the other hand, the implementation of that legislation and of the policy in force. His analysis covered both the situation of non-Muslims - Christians and animists - and that of Muslims.

134. On the subject of legislation, the Special Rapporteur stressed that the State religion, or the religion of the State, is not inherently incompatible with human rights. However, that fact - which is confirmed by Constitutional Decree No. 7 - should not be exploited to the detriment of the rights of non-Muslims and the rights derived from citizenship, which imply that there should be no discrimination between citizens based, inter alia, on considerations of belief or conviction.

135. In that context, with reference to the constitutional provisions concerning the armed forces and the duty of jihad, because of the ambivalence of the concept of jihad, which has implications that are both offensive (holy war against infidels) and defensive (response to an attack), and because the authorities have stated that they have opted for the defensive meaning, the Special Rapporteur recommends that those authorities clarify, by means of an interpretive text, the defensive meaning of the term "jihad" in order to make sure that it is compatible with the international norms to which the Sudan has committed itself.

136. With respect to the application of the shariah, especially to non-Muslims, the Special Rapporteur recommends that the constitutional provisions on the judiciary should be supplemented by legislation ensuring that the courts take into account the customary law of non-Muslims as a guiding source of law, to the extent, naturally, that such law is compatible with international human rights provisions.

137. The Special Rapporteur also recommends to the authorities that they ensure the compatibility of legislation on hudud offences with human rights and urges that hudud penalties, because they are of exclusively Islamic origin, should not be applied to persons who are not Muslims.

138. On the subject of proselytism, conversion and apostasy, the Special Rapporteur wishes to emphasize the need to respect internationally established norms in the field of human rights, including the freedom to change one's religion and the freedom to manifest one's religion or belief either individually or in community with others and in public or private, subject to any necessary restrictions provided by law.

139. In this connection, specifically on the subject of conversion, the Special Rapporteur wishes to recall general comment No. 22 (48) adopted on 20 July 1993 by the Human Rights Committee:[3]

> "The Committee observes that the freedom to 'have or to adopt' a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief

with another or to adopt atheistic views, as well as the right to retain one's religion or belief. Article 18.2 [of the International Covenant on Civil and Political Rights] bars coercion that would impair the right to have or adopt a religion or belief, including the use or threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert."

140. With regard to legislation on public order and the treatment of prisoners, the Special Rapporteur recommends that the authorities bear in mind the commitments they have entered into in the field of human rights, in particular those arising out of the ratification of the International Covenant on Civil and Political Rights, especially article 18. On the question of dress, the Special Rapporteur, while emphasizing that traditions and customs, irrespective of their origins, are equally worthy of respect, urges that dress should not be the subject of political regulation and calls for flexible and tolerant attitudes in this regard, so as to allow the variety and richness of Sudanese garments to manifest themselves without constraint. The Special Rapporteur recommends the revision of the Organization of Prisoners and Treatment of Inmates Act (1992), so that any early release is not applied in a discriminatory manner.

141. On the subject of legislation concerning education, the Special Rapporteur recommends that the State, through the school system, promote the development of a culture of tolerance and non-discrimination.

142. Lastly, the Special Rapporteur would be grateful if the Sudanese authorities would inform him of the current status of the Provisional Order and recommends more effective consultation with the churches in order to work out legislation that does not jeopardize the free exercise of religious activities, apart from restrictions legitimately provided for under international law.

143. On the subject of implementation of the legislation and policy in force, the Special Rapporteur focused his analysis, on the one hand, on non-Muslims and, on the other, on Muslims.

144. He wishes to emphasize once more that the religion of the State, or the State religion, is not inherently incompatible with human rights. However, in the application of its law and policy, the State should not take religion under its protection in order to define its content, concepts or limits, other than those that are strictly necessary and are provided for by article 1, paragraph 3, of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, together with article 18 of the International Covenant on Civil and Political Rights. Such restrictions are only authorized if they are provided for by law, are necessary in order to ensure security, public order and public health and to protect morals or the fundamental freedoms and rights of others, and are applied in such a way as not to impair the right to freedom of thought, conscience and religion.

145. With respect to the situation of the non-Muslim communities, while noting the progress made in certain respects which deserves to be emphasized, the Special Rapporteur must nevertheless express his concern.

146. As regards freedom of religion and belief, the Special Rapporteur considers that there should not be any control that is likely, through limitations and constraints on officials of religion, believers and places of worship, to infringe the freedom of belief and the freedom to manifest one's belief.

147. In that connection, the Special Rapporteur considers it essential that any conversion should be the result of free choice and not of constraint. Similarly, the conversion of Muslims to another religion should not give rise to any kind of pressure, restriction or deprivation of freedom with respect to the converted believers and the religious officials of their community.

148. Concerning the implementation of the legislation on hudud offences, the Special Rapporteur reiterates the recommendations he made in the legislative part.

149. On the specific question of places of worship, the Special Rapporteur earnestly recommends that all the limitations on the construction of new places of worship be abolished. As regards the destruction of places of worship in the context of urban development plans, it is essential that provision should systematically be made for measures of compensation, in particular by providing sites for the construction of places of worship.

150. It is also necessary that the State should exercise its responsibility with respect to the protection of places of worship, to ensure that such places are shielded from religious extremism, obscurantism and the consequences of the conflict in the south of the Sudan.

151. With respect to education, the Special Rapporteur emphasizes the need to make allowances for the religious, ethnic and cultural diversity of the Sudanese population and to respect such diversity in the classroom by reflecting it in the curricula and the treatment accorded to the teachers and pupils of the non-Muslim communities.

152. It is also vital that schools should devise teaching methods that promote tolerance and freedom in order to make the unrestricted enjoyment of rights and freedoms available to all.

153. On the subject of protection of the individual, the Special Rapporteur wishes to recall that the physical and moral integrity of individuals must not be threatened, in particular on grounds of faith or belief.

154. Lastly, the Special Rapporteur notes the measures to ease restrictions on the travel of Sudanese and foreign religious officials and on the distribution of religious publications. The Special Rapporteur encourages the extension of these positive measures in order to enable non-Muslim Sudanese to avail themselves of all the rights and freedoms associated with citizenship.

155. Concerning the situation of Muslims, the Special Rapporteur appeals for the various Muslim brotherhoods to be respected. He wishes, however, to specify that religious freedom, in accordance with international law, should be a means of promoting tolerance and should not provide a basis for justifying obscurantism.

156. The Special Rapporteur recommends that the religious activities of the various Muslim brotherhoods should be conducted in full freedom, subject to restrictions provided for by internationally established standards and any restrictions to combat violence, extremism and obscurantism.

157. To that end, sermons should be the sole responsibility of the religious officials, who should be able to perform their religious activities and choose their own means of expression without any pressure, prohibition or interference with their freedom.

158. The Special Rapporteur also considers that special efforts should be made with respect to places of worship, which should be a forum for religious matters alone, not political ones, and, as places of meditation and prayer, should be protected from political tensions and controversy. The Special Rapporteur earnestly recommends that all the prohibitions and limitations imposed on the places of worship of the Muslim brotherhoods should be abolished. Similarly, all the community property confiscated, particularly from the Ansar Order, should be returned.

159. The State is also called on to exercise its full responsibility with respect to the protection of places of worship and to any criminal acts of destruction or desecration. All manifestations of hatred and intolerance and all acts of violence, intimidation or coercion motivated by religious extremism or intolerance of the religion or belief of others must be condemned and punished.

160. On the subject of protection of the individual, the Special Rapporteur earnestly hopes that restrictions on the freedom of movement of religious officials will be lifted and that the campaigns of harassment and intimidation directed against them, which are also prejudicial to their followers, will cease, thus enabling the Muslim brotherhoods to realize their full potential without fear, constraint or self-censorship, subject, of course, to respect for public order and the law and the avoidance of violence, extremism and obscurantism.

161. Finally, the Special Rapporteur considers that the overall policy emphasizing tolerance that has been publicly declared by the authorities should be unambiguously and unambivalently affirmed with greater determination and be followed by specific progress within Sudanese society towards religious, cultural and ethnic diversity.

Notes

[1] The waqf (pl. awqaf) is a gift or legacy of an asset or a piece of property in perpetuity to the State or other Islamic entity for holy works or for the public good.

[2] HRI/GEN/1/Rev.1, para. 5.

ANNEX

Christian activities in the Sudan (official information)

Forms	Social services centres	Missionary charitable societies	Medical centres/ clinics	Schools and institutions	Accommo-dation	Vehicles	Foreign missionaries	Improvised	Fixed	Church	State
2	4	9	15	40	27	201	200	25	25	a	Khartoum
-	1	2	2	7	14	7	15	15	4	b	
-	-	-	-	-	-	-	-	1	1	c	
-	-	-	-	-	-	-	12	12	3	d	
-	-	-	-	2	-	-	-	1	1	e	
-	-	-	-	2	-	-	-	1	-	f	
-	-	-	-	5	-	-	-	6	2	g	Bahr El Goza
-	-	-		-		-	-		1	g	
-	-	1	5	-	-	-	5	10	2	a	Upper Nile
-	-	-	-	-	-	-	-	3	1	c	
-	-	-	-	-	-	-	-	-	1	h	
-	-	-	-	-	-	-	-	1		i	
-	-	-	-	-	-	-	-		1	e	
2	5	12	22	56	41	208	75	42	-		
								6	6	a	Bahr El Gaza
								10	7	h	
								3		f	
								4		i	
								2		c	
								2		k	
								1		i	
								1		h	
								10	2		
	1	1			1			2	1	a	1

/...

Forms	Social services centres	Missionary charitable societies	Medical centres/ clinics	Schools and institutions	Accommo-dation	Vehicles	Foreign missionaries	Improvised	Fixed	Church	State
					1				1	[g]	
					1			1		[b]	
					1				1	[d]	
	1	1			4			42	18		

[a] Catholic.

[b] Episcopal.

[c] Presbyterian.

[d] Anglican.

[e] Sudanese interior.

[f] Pentecostal.

[g] Coptic.

[h] Jehovah's Witness.

[i] Adventist.

[j] African interior.

[k] New Apostolic.

[l] North Kordofan.